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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/613,735
Filing Date: July 03, 2003
Appellant(s): RISING, LARRY

MAILED
DEC 26 2006
GROUP 1700

Cary Tope-McKay
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 6, 2006 appealing from the Office action mailed July 22, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct except as to claim 41.

A substantially correct copy of appealed claim 41 appears on page 7 of the Appendix to the appellant's brief. The minor errors are as follows: in claim 41, line 2, after "vapor", the term ":" should be removed as it indicated the deletion of the "." in a previous amendment.

(8) Evidence Relied Upon

| | | |
|-----------|---------------|---------|
| Re 27,995 | WEDLER | 4-1974 |
| 4,136,636 | ELLISON ET AL | 1-1979 |
| 4,421,794 | KINSLEY, JR. | 12-1983 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. **Claims 26-48 stand finally rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains**

Art Unit: 1762

subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent claim 26, from which the other claims depend, was amended by the June 13, 2005 amendment to require "passing the substrate with remaining chemical mixture by and against an evaporator apparatus, such that the evaporator apparatus operates as a heat plate to evaporate the non-aqueous solvent into a solvent vapor". However, this amendment contains new matter. The figures as originally provided do not indicate that the evaporator is a heat plate that contacts the substrate. Furthermore, the description in the originally filed specification at page 11 of the evaporator apparatus further does not indicate the use of a "heat plate" that contacts the substrate, within the broad meaning of that term.

While page 11 describes "any suitable apparatus for evaporating the non-aqueous solvent" (lines 14-15), a "heat plate" is not specifically described or suggested. The description of a heat exchanger at page 11 also does not mean that any "heated surface" heat plate can be used, as an electrically heated heat plate, for example, could be used that would not necessarily exchange heat using fluid as a heat exchanger would.

2. Claim 26-30 and 33 stand finally rejected under 35 U.S.C. 102(b) as being anticipated by Wedler (US Re 27,995).

Wedler teaches a method of applying a chemical solution to a textile substrate.

Figure 3 and column 1, lines 15-30. The method includes forming a chemical mixture that can comprise a non-aqueous solvent and a chemical solute. *Column 1, lines 15-30, column 3, lines 15-35 (describing various usable solvents that can be non-aqueous), column 6, lines 50-55 (also as to solvents) and column 4, lines 10-20.* The chemical mixture is applied to the substrate forming a wet substrate. *Figures 1 and 3 and column 4, lines 10-20 and 65-75.* The solvent is removed from the wet substrate leaving a substrate with remaining chemical solute. *Figures 1 and 3 and column 4, lines 65-75 (the padding rolls 14) and column 5, lines 15-35.* The removal of the solvent from the substrate can comprise removing a portion of the chemical mixture from the wet substrate leaving a substrate with remaining chemical mixture. *Figures 1 and 3 and column 4, lines 65-75 (the padding rolls 14 remove a portion of the originally applied mixture).* The boiling point of the solvent in the substrate with remaining chemical mixture can be lowered. *Figure 3, column 4, lines 65-75 and column 3, lines 1-15 (a vacuum is provided in the chamber 12, 12', which would inherently lower the boiling point (note page 11, lines 10-12 of the specification noting this activity inherently lowers the boiling point)).* The solvent can be evaporated into solvent vapor by passing the substrate with remaining chemical mixture by and against an evaporator apparatus. *Figure 3 and column 5, lines 5-25 (the cylinders 44).* The evaporator apparatus operates as a heat plate to evaporate the solvent into solvent vapor. *Figure 3 and column 5, lines 5-25 (while the cylinders 44 are not in a flat "plate", the cylinders 44 are*

heated and act to vaporize the solvent and dry the web on contact, thus operating "as a heat plate" by use of a heated contact surface).

Claim 27: the removal of a portion of chemical mixture can be performed using a squeeze roller. *Figures 1 and 3 and column 4, lines 65-75 (padding rolls 14 act as "squeeze rollers" that squeeze the substrate).*

Claims 28-29: the evaporator apparatus can be a heat exchanger apparatus that uses steam as the heat exchanger. *Figure 3 and column 5, lines 5-25 (the cylinders 44 are heated and act to vaporize the solvent and dry the web by contact, and can be heated with steam, and thus act as a "heat exchanger").*

Claim 30: the solvent vapor can be prevented from escaping by using a negative pressure. *Figure 3 and column 4, lines 60-75. The solvent vapor can be removed from the system. Column 4, lines 50-55 and column 5, lines 1-5.*

Claim 33: the removed solvent can be collected. *Column 4, line 65 through column 5, line 5 (the solvent removed by squeezing is collected back in the coating pool, and the solvent removed by evaporation can also be collected for recycling for reuse) and figure 3. The solvent removed in the squeezing is collected back in the coating pool. Figure 3. The solvent vapor removed by evaporation can also be collected for recycling for reuse. Column 4, lines 55-65 and column 5, lines 1-5.*

3. Claim 31 stands finally rejected under 35 U.S.C. 103(a) as being unpatentable over Wedler as applied to claims 26-30 and 33 above, and further in view of Ellison et al (US 4136636).

Wedler teaches all the features of this claim except the blower used to create negative pressure and prevent the vapor from escaping.

However, Ellison teaches that when moving a coated substrate (with the coating containing vaporizable solvents) through an oven area it is known to use a blower fan to establish a slightly negative pressure at the oven inlet, which causes inward gas flow, and would prevent vapors from escaping. *Column 6, lines 1-45 and column 4, lines 1-20.*

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wedler to use a blower fan as shown by Ellison, with an expectation of providing a desirable coated fabric, because Wedler teaches to coat a fabric followed by squeezing to remove excess solvent and then passage into a dryer oven chamber with a negative pressure (vacuum) where solvent is vaporized, and Ellison teaches providing fans at an oven entrance is a desirable method to provide a negative pressure. As the negative pressure pulls gases in, it would prevent vapors from exiting.

4. Claims 32 and 34-42 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Wedler as applied to claims 26-30 and 33 above, and further in view of Kinsley, Jr. (US 4421794).

Wedler teaches all the features of these claims, except the solvent removing features and recirculating features. Wedler does teach the padding applicator, as required by claim 39. *See column 4, lines 65-75.*

However, Kinsley teaches a method for removing non-aqueous solvent from a substrate, which substrate can be paper or a fabric. *Column 1, lines 10-15 and column 6, lines 39-45.* After a substrate has been coated with a chemical mixture of a coating material and a solvent, the solvent is to be removed. *Column 3, lines 55-65.* The coated substrate is passed into a chamber which can be at reduced pressure, which would lower a boiling point of the solvent. *Column 7, lines 5-15, column 5, lines 45-65, and column 8, lines 35-55.* Then the solvent, which is non-aqueous, is then evaporated into a solvent vapor. *Column 2, line 60 through column 3, line 10.* A steam based heat exchanger is used to evaporate the solvent (the steam is a heat exchanger heating the solvent). *Column 3, lines 55-65.* Vapors are prevented from escaping to the extent that a negative pressure is created. *Column 5, lines 45-65.* Solvent vapors that have been evaporated into the steam are removed from the system. *Column 5, line 65 through column 6, line 15 and column 7, lines 20-40.* Removed solvent is collected. *Column 5, line 65 through column 6, line 15 and column 7, lines 20-40.* The collecting can include pushing the solvent vapor into a scrubber chamber. *Column 5, line 65 through column 6, line 15 and column 7, lines 20-40 (the condensing and distillation/decanting).* This would occur via the negative pressure, since such pressure is present. *Column 5, lines 45-65.* The vapor is condensed into a condensed liquid solvent solution. *Column 5, line 65 through column 6, line 15 and*

Art Unit: 1762

column 7, lines 20-40. This is collected and then heated to revaporize the solvent, the revaporized solvent is then cooled and condense to recondensed solvent, which is collected. *Column 5, line 65 through column 6, line 15 and column 7, lines 20-40 (the condensing and distillation/decanting).* A water mechanism is used as a condenser apparatus. *Column 7, lines 25-35.* Kinsley also teaches that a separator can be present in the process to provide optimal steam which would remove mist, since water is removed. *Column 6, lines 45-60.* This system provides for an easy and efficient removal of solvent. *Column 2, lines 35-65.*

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wedler to use a solvent recycling system for recirculating the collected solvent as shown by Kinsley, with an expectation of providing a desirable coated fabric, because Wedler teaches to coat a fabric followed by squeezing to remove excess solvent and heating in a drying oven to remove solvent and that the vapors are to be recycled for reuse, and Kinsley teaches a desirable method of recirculating solvent recovered when coating fabric with a solvent containing material followed by heating in an oven to remove solvent. It would further have been obvious to use a water spray mechanism to condense the solvent vapor as in claim 35 in the process of Wedler in view of Kinsley with an expectation of desirable coating results, because Kinsley teaches to condense by adding cold water, which would be inclusive of adding the cold water by spraying. It would further have been obvious to modify Wedler in view of Kinsley to use a steam heat based exchanger to heat the "re-boiler

tank" in the processes of distillation/decanting as in claim 36 with an expectation of providing desirable heating, because Kinsley teaches distillation/decanting of the recovered solvent vapors and such a process would require heating in a "tank", and Kinsley and Wedler both further teach heating with steam, such that steam would be present to provide heating. It further would have been obvious to modify Wedler in view of Kinsley to provide pumping of the recovered solvent from a recovery tank (which would be provided to hold the recovered solvent) to a mix tank to be provided with the material to be coated and that this mix is further pumped to the application apparatus as in claims 37-38, because Kinsley provides for solvent recovery, complete with distillation/decanting which provides a clean solvent that allows for reuse, and it would be obvious to provide for reuse in the coating system itself or an another applicator of the coating system to allow cost savings on solvent.

5. Claims 43-48 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Wedler in view of Kinsley as applied to claim 32 and 34-42 above, and further in view of Ellison et al (US 4136636).

Wedler in view of Kinsley teaches all the features of these claims except the blower used to create negative pressure and prevent the vapor from escaping.

However, Ellison teaches that when moving a coated substrate (with the coating containing vaporizable solvents) through an oven area it is known to use a blower fan

Art Unit: 1762

to establish a slightly negative pressure at the oven inlet, which causes inward gas flow, and would prevent vapors from escaping. *Column 6, lines 1-45 and column 4, lines 1-20.*

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wedler in view of Kinsley to use a blower fan as shown by Ellison, with an expectation of providing a desirable coated fabric, because Wedler in view of Kinsley teaches to coat a fabric followed by squeezing to remove excess solvent and then passage into an oven with a negative pressure (vacuum), and Ellison teaches that providing fans at an oven entrance is a desirable method to provide a negative pressure. As the negative pressure pulls gases in, it would prevent vapors from exiting.

(10) Response to Argument

1. Issue 1: Are Claims 26-48 patentable under 35 USC 112, first paragraph

Appellant's Arguments

Appellant argues that as to claim 26, support is described at page 11, referring to the description that the evaporator apparatus can be a heat exchanger. Appellant further discussed what is required by a heat exchanger. Appellant further argues that give the description as a heat exchanger and that as shown in figure 1 and described in the specification, the heat exchanger 112 has a surface that the substrate passes against, that one skilled in the art would clearly understand the evaporator apparatus 112 to operate as a "heated surface (i.e., a heat plate)." Additionally, appellant argues, because

a "heat plate" is a commonly known heat exchanger, one skilled in the art would understand the heated surface to be a "heat plate".

The Examiner's Response

The Examiner has reviewed appellant's arguments, however, the rejection is maintained. While page 11 of the specification describes the use of "any suitable apparatus for evaporating the non-aqueous solvent" (lines 14-15), a "heat plate" is not specifically described or suggested. The description of a heat exchanger at page 11 of the specification also does not mean that any "heated surface" heat plate can be used, as an electrically heated heat plate, for example, could be used that would not necessarily exchange heat using fluid and would thus, not be a "heat exchanger".

As discussed in MPEP 2163.05, "omission of a limitation can raise an issue regarding whether the inventor had possession of a broader, more generic invention. See, e.g., *Gentry Gallery, Inc. v. Berkline Corp.*, 134 F.3d 1473, 45 USPQ2d 1498 (Fed. Cir. 1998)." Furthermore, MPEP 2163.05, also provides

The written description requirement for a claimed genus may be satisfied through sufficient description of a representative number of species. A "representative number of species" means that the species which are adequately described are representative of the entire genus. Thus, when there is substantial variation within the genus, one must describe a sufficient variety of species to reflect the variation within the genus. >The disclosure of only one species encompassed within a genus adequately describes a claim directed to that genus only if the disclosure "indicates that the patentee has invented species sufficient to constitute the gen[us]." See *Enzo Biochem*, 323 F.3d at 966, 63 USPQ2d at 1615.

In this case, the single species of heat exchanger does not provide support for the broader genus of "heat plate", which as described by appellant operates as a "heated surface", since there is no indication of what genus can be used between "any suitable apparatus" and "heat exchanger". As discussed in the immediate paragraph above, a "heat plate" is not necessarily a heat exchanger, since a "heat plate" can be heated by other than fluid, such as by electrical coils.

2. Issue 2: Are Claims 26-30 and 33 patentable under 35 USC 102(b) over Wedler
Appellant's Arguments

As to independent claim 26, appellant sets forth the Examiner's position (apparently from the Final Rejection of July 22, 2005). Then appellant argues that the Examiner has misinterpreted Wedler as it discloses heated rollers and not a heat plate.

WB According to appellant, the cylinders 44 of Wedler are heat exchanging rollers that allow the textile material to pass with and against the rollers, which means that the cylinders operate to allow the textile material to roll past the rollers in the same direction as the rollers roll (since "with" is defined as "in the same direction as").

Appellant argues that this is contrasted with the device of present claim 26, where the heat exchanger is a fixed device that operates as a heat plate to allow a textile material to pass by and against the heat exchanger to evaporate the non-aqueous solvent (i.e., "... evaporating the non-aqueous solvent into a solvent vapor by passing the substrate with remaining chemical mixture by and against an evaporator apparatus ..."). According

Art Unit: 1762

to appellant, because the heat exchanger disclosed in claim 26 is a fixed device, the textile material actually slides (passing) by and against the heat exchanger (with “passing” defined as “to go across”). Thus, according to appellant, the substrate in the present application actually goes across the heat exchanger. Appellant states that although a fine distinction, by their very nature as rollers, the cylinders described by Wedler simply do not allow the textile material “to go across” the rollers. Instead, Wedler teaches evaporating a solvent into solvent vapor by rolling the substrate with remaining chemical mixture with and against an unfixed evaporator apparatus (i.e. rollers). The substrate does not “go across” the rollers, but rolls with the rollers. As a result, appellant argues, Wedler does not teach each of the claimed elements of claim 26.

Appellant's Subheading Arguments as to claims 27, 28, 29, 30 and 33.

As to each of these claims, appellant sets forth the Examiner's position (apparently from the Final Rejection of July 22, 2005), and then argues that each of claims 27, 28, 29, 30 and 33, respectively, are “dependent on claim 26” and “patentable by virtue of its dependency”

The Examiner's Response

As to independent claim 26, the Examiner has reviewed appellant's arguments, however, her position as to the anticipation of the claim is maintained. All of appellant's arguments are directed at material of the last four lines of claim 26, which lines are directed to removing solvent by the acts of “evaporating the non-aqueous solvent into a solvent vapor by passing the substrate with remaining chemical mixture by and against

an evaporator apparatus, such that the evaporator apparatus operates as a heat plate to evaporate the non-aqueous solvent into a solvent vapor.” Therefore, the Examiner understands appellant as agreeing with the Examiner’s position that Wedler teaches all the features of claim 26 up to that point in the claim, including the forming of the chemical mixture, the applying of the chemical mixture to form a wet substrate, and the removing of non-aqueous solvent by removal of a portion of the chemical mixture and the lowering of a boiling point.

As to Wedler teaching the features required by the last four lines of claim 26, “evaporating the non-aqueous solvent into a solvent vapor by passing the substrate with remaining chemical mixture by and against an evaporator apparatus, such that the evaporator apparatus operates as a heat plate to evaporate the non-aqueous solvent into a solvent vapor”, it is the Examiner’s position that Wedler teaches all the requirements of the claim, as fully described in the *Grounds of Rejection* above. For further clarification, as to appellant’s arguments as to the use of heated rollers in the form of cylinders 44 by Wedler rather than a “heat plate”, claim 26, as worded, requires using “an evaporator apparatus” that “operates as a heat plate”. Cylinders 44 of Wedler are clearly “an evaporator apparatus” as the textile material substrate is fed over these steam or hot water heated cylinders 44 to dry the textile material and vaporize (evaporate) solvent (see column 5, lines 5-35 and column 6, lines 40-45). It is the Examiner’s position that the cylinders also act “as a” heat plate, since they are heated by steam or hot water which forms a “heated surface” for the evaporation of solvent

(column 5, lines 5-15 and column 6, lines 40-45). The cylinders do not have to be flat or plate shaped, since they are acting "as a" heat plate (that is, acting "like" or "in the fashion of" a heat plate). Moreover, appellant's own description of "heat plate" at page 8, lines 13-14 of the Appeal Brief, is for the evaporator to "operate as a heated surface (i.e., heat plate)", which indicates that a "heated surface" is what provides a heat plate.

Furthermore, the Examiner entirely disagrees appellant's argument as to the operation of the cylinders 44 of Wedler as compared to the present application. Appellant argues that in Wedler the cylinders are heat exchanging rollers that allow the textile material to "pass with and against the rollers", where "with" means "in the same direction as". The Examiner has reviewed this argument, but is of the position that even if this is true, this still reads exactly on what is claimed. Claim 26 claims "... passing the substrate with remaining chemical mixture by and against an evaporator apparatus..." (emphasis added). Every feature of the quoted passage is taught by Wedler. First, as discussed in the rejection of claim 26 in the *Grounds of Rejection* above, the textile material forms the substrate and in the course of processing the substrate reaches a point where it contains "remaining chemical mixture" which is heated to remove non-aqueous solvent. Secondly, appellant's own statement indicates that the textile material substrate will "pass" the rollers (see page 10, line 9 of the Appeal Brief). Thirdly, as to appellant's statement that the textile material will pass "with" the rollers, that is, the textile material will roll past the rollers "in the same direction as" the rollers roll, the Examiner has reviewed Wedler and can find no

Art Unit: 1762

statement in that reference that the cylinders 44 must actually rotate. However, even if they do rotate in the same direction as the movement of the substrate, this is in no way prevented by the wording of claim 26 which requires passing "by" the evaporator apparatus and does not use the term "with". As discussed in MPEP 2111.01,

During examination, the claims must be interpreted as broadly as their terms reasonably allow. In re American Academy of Science Tech Center, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004) (The USPTO uses a different standard for construing claims than that used by district courts; during examination the USPTO must give claims their broadest reasonable interpretation >in light of the specification<.). This means that the words of the claim must be given their plain meaning unless **>the plain meaning is inconsistent with< the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (discussed below); Chef America, Inc. v. Lamb-Weston, Inc., 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004)

Furthermore, as discussed in MPEP 2111.01, "plain meaning" refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art. Therefore, since the term "by" was not defined in the specification, the Examiner understands it to have its ordinary and customary meaning. As described in Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc, publishers, 1990, "by" can be understood to mean "in the direction of" (definition 2b). Thus, even if the textile material goes past the cylinder 44 "in the direction" of the cylinder's rotation as described by appellant, this is allowed by the term "by" in the claim. Fourthly, as to the substrate being "against" the evaporator apparatus, appellant has noted that the textile material of Wedler will be "against" the cylinders 44 as discussed above (see page 10, line 9 of the Appeal Brief). Finally, as to the cylinders 44 being an evaporator apparatus, it is the

Examiner's position that the cylinders 44 of Wedler are evaporator apparatuses operating as heat plates, as discussed in the immediate paragraph above. Thus, the Examiner has noted how Wedler provides every feature of the quoted passage of claim 26 discussed by appellant ("... passing the substrate with remaining chemical mixture by and against an evaporator apparatus..." (emphasis added)).

As to appellant's further argument that the heat exchanger in claim 26 is "fixed" thus distinguishing from Wedler, the Examiner notes that there is nothing in claim 26 to require that the evaporator apparatus be fixed (or that it be a heat exchanger – that is required by claims 28 and 41). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Moreover, the cylinders 44 of Wedler would be "fixed" in position, even if rotating, as the cylinders are placed in specific positions in the chamber as shown in the Figure 3. Also, the cylinders 44 would be a "heat exchanger", as discussed in regards to claims 28-29 in the *Grounds of Rejection* above.

As to the argument that that the cylinders 44 in Wedler do not allow the textile material "to go across" the rollers, and thereby are not "passing" the evaporator apparatus as claimed, the Examiner entirely disagrees. Firstly, appellant also describes Wedler as indicating that the textile material will "pass" with and against the rollers (see page 10, line 9 of the Appeal Brief), and thus meet the requirement of claim 26 as to passing. Furthermore, "passing" is also understood, using the "broadest reasonable

interpretation" and "plain meaning" standard as discussed in regard to MPEP 2111.01 above (as the term "passing" was not defined in the specification, the Examiner understands it to have its ordinary and customary meaning), to have the meaning "going by or past" (definition 1 of the adj form, as described in Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc, publishers, 1990). The textile substrate of Wedler will certainly be "going by or past" the cylinders 44, because as shown by Wedler the textile material is fed over the cylinders 44 in a continuous fashion and then "continuously passes from the chamber" (column 5, lines 5-35), thus clearly providing that the textile material goes by or past the cylinders 44 as it leaves the chamber containing the cylinders.

The Examiner's Response as to Subheading Arguments as to claims 27, 28, 29, 30 and 33.

The Examiner has reviewed appellant's arguments as to dependent claims 27, 28, 29, 30 and 33. However, the rejection of these claims is maintained for the same reasons as the rejection of claim 26 is maintained above, since appellant has provided no further arguments as to allowability beyond dependency from claim 26.

3. Issue 3: Is claim 31 patentable under 35 USC 103 over Wedler, as applied to claims 26-30 and 33, further in view of Ellison

Appellant's Arguments

As to claim 31, appellant sets forth the Examiner's position (apparently from the Final Rejection of July 22, 2005), and then argues that claim 31 is "dependent on claim 26" and "patentable by virtue of its dependency".

The Examiner's Response

The Examiner has reviewed appellant's arguments as to dependent claim 31. However, the rejection of this claim is maintained for the same reasons as the rejection of claim 26 is maintained above, since appellant has provided no further arguments as to allowability beyond dependency from claim 26.

4. Issue 4: Are claims 32 and 34-42 patentable under 35 USC 103 over Wedler, as applied to claims 26-30 and 33, further in view of Kinsley

Appellant's Arguments

As to these claims, appellant sets forth the Examiner's position (apparently from the Final Rejection of July 22, 2005), and then argues that each of claims 32, 34, 35, 36, 37, 38, 39, 40, 41 and 42, respectively, are "dependent on claim 26" and "patentable by virtue of its dependency"

The Examiner's Response

The Examiner has reviewed appellant's arguments as to dependent claims 32, 34, 35, 36, 37, 38, 39, 40, 41 and 42. However, the rejection of these claims is maintained for the same reasons as the rejection of claim 26 is maintained above, since appellant has provided no further arguments as to allowability beyond dependency from claim 26.

5. **Issue 5: Are claims 43-48 patentable under 35 USC 103 over Wedler in view of Kinsley, as applied to claims 32 and 34-42, further in view of Ellison**

Appellant's Arguments

As to these claims, appellant sets forth the Examiner's position (apparently from the Final Rejection of July 22, 2005), and then argues that each of claims 43, 44, 45, 46, 47 and 48, respectively, are "dependent on claim 26" and "patentable by virtue of its dependency"

The Examiner's Response

The Examiner has reviewed appellant's arguments as to dependent claims 43, 44, 45, 46, 47 and 48. However, the rejection of these claims is maintained for the same reasons as the rejection of claim 26 is maintained above, since appellant has provided no further arguments as to allowability beyond dependency from claim 26.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



KATHERINE BAREFORD
PRIMARY EXAMINER

Conferees:

Timothy Meeks, SPE 1762

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TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER